

## **8.6. PP6/20 - 45 McLaren Street, North Sydney - Adjustment to VPA offer and draft DCP amendment**

**AUTHOR:** Ben Boyd, Executive Strategic Planner

**ENDORSED BY:** Joseph Hill, Director City Strategy

### **ATTACHMENTS:**

1. 45 McLaren St North Sydney Revised VPA offer 02082022 [8.6.1 - 8 pages]

### **PURPOSE:**

To seek endorsement of a revised offer to enter a Voluntary Planning Agreement and revised parking controls within a draft DCP amendment associated with Planning Proposal 6/20 to amend the planning controls under North Sydney Local Environmental Plan 2013 for land at 45 McLaren Street, North Sydney.

### **EXECUTIVE SUMMARY:**

On 28 March 2022, Council resolved to support the progression of Planning Proposal 6/20 to Gateway Determination to amend the planning controls under North Sydney Local Environmental Plan 2013 as it relates to land at 45 McLaren Street North Sydney.

In addition, Council resolved to support:

- an offer to enter into a Voluntary Planning Agreement (VPA) to deliver a number of public benefits to the value of approximately \$5.8 million including:
  - a monetary contribution towards public infrastructure identified in the Ward Street Precinct Masterplan;
  - streetscape upgrades adjacent to the site
  - expansion of an existing public through site link across the site; and
  - dedication of one x 2-bedroom affordable housing unit.
- a site-specific amendment to North Sydney Development Control Plan 2013 to moderate the built form including revised parking rates.

In light of the proposed imposition of more restrictive parking rates under the draft DCP amendment on 28 March 2022, the applicant has advised Council that if imposed, it would have a financial impact on their ability to deliver aspects of the public benefit offer.

This report seeks to elaborate on this issue and consider the revised offer to enter into a VPA and request to impose revised carparking rates under the draft DCP, prior to them being placed on public exhibition.

### **FINANCIAL IMPLICATIONS:**

If Council resolves to impose reduced parking rates following the concurrent public exhibition of the Planning Proposal, draft DCP amendment and draft VPA, the value of the public benefit offer could be reduced in the order of \$1.6m depending upon the makeup of any future development approved on the site. Those funds would effectively reduce the quantum of money be allocated to new community infrastructure within the Ward Street Precinct.

**RECOMMENDATION:**

**1.THAT** Council agree in-principle to the contents of the revised letter of offer dated 2 August 2022 to enter into a Voluntary Planning Agreement, forming Attachment 1 to this report.

**2.THAT** the General Manager be authorised to negotiate the detailed terms and provisions of a draft Voluntary Planning Agreement generally consistent with the applicant's offer (Attachment 1) and as outlined in this report.

**3.THAT** Council agree to the further amendment of the draft site specific amendment to North Sydney Development Control Plan 2013 to incorporate revised parking rates consistent with that adopted by Council on 25 July 2022.

## LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

### 1. Our Living Environment

1.4 Well utilised open space and recreational facilities

### 2. Our Built Infrastructure

2.1 Infrastructure and assets meet diverse community needs

2.2 Vibrant public domains and villages

2.3 Prioritise sustainable and active transport

2.4 Efficient traffic mobility and parking

### 3. Our Innovative City

3.1 Our commercial centres are prosperous and vibrant

3.2 North Sydney is smart and innovative

3.3 Distinctive sense of place and design excellence

### 4. Our Social Vitality

4.1 North Sydney is connected, inclusive, healthy and safe

### 5. Our Civic Leadership

5.1 Lead North Sydney's strategic direction

5.2 Strong civic leadership and customer focussed services

## BACKGROUND

On 22 October 2020, Council received a Planning Proposal (6/20) to amend North Sydney Local Environmental Plan (NSLEP) 2013 as it relates to land located at 45 McLaren Street, North Sydney. In particular, it seeks to make the following amendments to NSLEP 2013:

- Rezone the site from *R4 High Density Residential* to *B4 Mixed Use*;
- Increase the maximum height of building limit from 12m to part RL 103 (approximately 36-43m) and Part RL 115 (approximately 47-51m max);
- Impose a maximum floor space ratio of 6.25:1;
- Impose a non-residential floor space ratio of 1:1;
- Amend Clause 4.4A – Non-Residential Floor Space Ratios to permit residential development at ground level facing Walker Street; and
- Amend Clause 6.12A – Residential flat buildings in Zone B4 Mixed Use to permit residential development at ground level facing Walker Street.

The Planning Proposal was accompanied by an offer to enter a Voluntary Planning Agreement (VPA) to deliver a number of public benefits to the value of approximately \$5.8 million including a monetary contribution towards public infrastructure identified in the Ward Street Precinct Masterplan, streetscape upgrades adjacent to the site, expansion of an

existing public through site link across the site and dedication of one x 2-bedroom affordable housing unit.

The Planning Proposal was also supported by a site-specific draft amendment to North Sydney Development Control Plan (NSDCP) 2013 to provide greater certainty as to the built form outcomes envisaged on the subject site.

At its meeting on 28 March 2022, Council resolved to support the progression of the Planning Proposal to Gateway Determination. In lending its support to progress the Planning Proposal, Council also resolved:

2. *THAT in issuing any Gateway Determination, the Minister for Planning be requested to include a condition requiring:*
  - (a) *the Visual Assessment Report be amended to include an illustrative assessment of the view impacts to residential properties located to the west of 45 McLaren Street located on McLaren and Miller Streets;*
  - (b) *the Planning Proposal to be revised to reflect the coming into force of the new LEP making Guidelines.*
3. *THAT Council adopt the associated draft amendment to North Sydney Development Control Plan 2013 forming Attachment 2 to this report and that draft amendment be placed on public exhibition concurrently with the Planning Proposal.*
4. *THAT Council agree in-principle to the contents of the revised letter of offer dated 15 March 2022 to enter into a Voluntary Planning Agreement forming Attachment 3 to this report, subject to the offer being revised to:*
  - (a) *include public benefits back up to a total value of \$5.8 million as originally offered, given the uncertainty as to the implementation of a Regional Infrastructure Contribution system; and*
  - (b) *include an ability for the applicant to revise their VPA offer should the Regional Infrastructure Contribution system be introduced.*
5. *THAT the General Manager be authorised to negotiate the detailed terms and provisions of a draft Voluntary Planning Agreement generally consistent with the applicant's offer (Attachment 3) and as outlined in this report.*
6. *THAT Resolution 5 be commenced immediately following Council's resolution to avoid any unnecessary delays post the issue of any Gateway Determination.*
7. *THAT should a Gateway Determination be issued to enable the Planning Proposal to be placed on public exhibition, that it only be placed on public exhibition concurrently with the draft Voluntary Planning Agreement (prepared in accordance with Recommendation No.5) and the draft amendment to North Sydney Development Control Plan 2013 (as adopted in accordance with Recommendation No.3).*

A copy of the report may be found here:

[https://www.northsydney.nsw.gov.au/Council\\_Meetings/Meetings/Council\\_Meetings/Council\\_Reports\\_28\\_Mar\\_2022](https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/Council_Meetings/Council_Reports_28_Mar_2022)

On 8 April 2022, Council submitted the Planning Proposal to the Department of Planning and Environment (DPE) requesting a Gateway Determination in accordance with Resolution 1.

In April 2022, the applicant in consultation with Council commenced the drafting of a draft VPA for exhibition purposes.

On 1 June 2022, the DPE issued a Gateway Determination enabling the Planning Proposal to proceed to public exhibition, subject to meeting a number of conditions.

## CONSULTATION REQUIREMENTS

Community engagement will be undertaken in accordance with Council’s Community Engagement Protocol.

## DETAIL

### 1. Issue

On 20 June 2022, the applicant advised Council that it had some concerns about its ability to deliver the public benefits under the VPA offer as endorsed on 28 March 2022, as a result of Council’s additional resolution to impose more restrictive parking rates to the site under NSDCP 2013.

In particular, Council had resolved on 28 March 2022 to impose the *B4 Mixed Use* parking rates that apply in Precincts 2 & 3 at St Leonards, rather than that which applies to *B4 Mixed Use* zoned land applying in the remainder of North Sydney. The original intent behind the proposed imposition of the Precincts 2 & 3 St Leonards parking rates on the subject site was to ensure that traffic generation was minimised on a site with high accessibility to mass public transport (i.e. North Sydney Railway Station and Victoria Cross Metro Station).

A comparison of the parking rates is illustrated in Table 1.

TABLE 1: Comparison of Parking Rates under NSDCP 2013 - Current and Proposed								
Concept Proposal			Current B4 Zoning in North Sydney		Proposed As per draft site specific DCP (28 March 2022)		Proposed As per draft DCP amendment to the carparking section (25 July 2022)	
Use	Sub. Cat.	Quantum	Rate	No.	Rate	No.	Rate	No.
			<b>Residential</b>	1 bed	25	0.5 / dw	12.5	0.25 /dw
	2 bed	38	1 / dw	38	0.5 / dw	19	0.6 /dw	22.8
	3 bed	19	1 / dw	19	0.5 / dw	9.5	0.7 / dw	13.3
	<i>Subtotal</i>	<i>82</i>		<i>69.5</i>		<i>34.8</i>		<i>46.1</i>
	<b>Total*</b>			<b>69</b>		<b>34</b>		<b>46</b>
<b>Commercial</b>	Retail	1499	1 / 400	3.7	1 / 400	3.7	1 / 400	3.7
	Gym	592	1 / 100	5.9	1 / 100	5.9	1 / 400	1.5
	<i>Subtotal</i>	<i>2061</i>		<i>9.7</i>		<i>9.7</i>		<i>5.2</i>
	<b>Total*</b>			<b>9</b>		<b>9</b>		<b>5</b>

TABLE 1: Comparison of Parking Rates under NSDCP 2013 - Current and Proposed								
Concept Proposal			Current B4 Zoning in North Sydney		Proposed As per draft site specific DCP (28 March 2022)		Proposed As per draft DCP amendment to the carparking section (25 July 2022)	
Use	Sub. Cat.	Quantum	Rate	No.	Rate	No.	Rate	No.
<b>TOTAL</b>			<b>78</b>		<b>43</b>		<b>51</b>	

\* The parking figures have been rounded down as the DCP imposes maximum rates.

The applicant advised Council that their original VPA offer was based on the provision of parking spaces in accordance with the current rate for development in the *B4 Mixed Use* zone within North Sydney (78 spaces). By resolving on 28 March 2022 to impose more restrictive parking controls on the site, this has resulted in the maximum number of parking spaces being reduced to 43 spaces. This in turn has had a financial impact on the salability of the future residential apartments which subsequently impacts on the ability to deliver the agreed VPA offer endorsed by Council on 28 March 2022.

The applicant has suggested that it costs in the order of \$50,000 to construct a basement parking space and that a parking space in the heart of North Sydney can add in the order of \$200,000-300,000 to the value of the residential apartment, resulting in a commercial financial impact in the order of \$150,000-250,000 per parking space. The construction and sale costs of a parking space quoted by the applicant is generally consistent with the current market rates, although a little higher for the sale price. However, this may be attributable to comparing a locality specific value versus a more averaged figure spread over several localities.

Based on this potential financial loss, the applicant has requested an amendment to the VPA offer, whereby the public benefits to be provided may be reduced if more restrictive parking controls are applied to the site. The extent to which the VPA offer is to be reduced is in the order of \$60,000 per space, which represents a portion (24-40%) of the potential commercial financial loss. This demonstrates that the applicant is willing to bear some of the financial impacts from the provision of reduced parking rates, whilst still committing to delivering a number of public benefits.

On 25 July 2022, Council endorsed a draft amendment to the car parking rates under NSDCP 2013 where a site has high accessibility to mass public transport in order to minimise traffic generation and maximise the uptake of active transport and place those amendments on public exhibition.

A copy of the report and resolution may be found here:

[https://www.northsydney.nsw.gov.au/Council\\_Meetings/Meetings/Council\\_Meetings/Council\\_Reports\\_25\\_Jul\\_2022](https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/Council_Meetings/Council_Reports_25_Jul_2022)

Table 1 demonstrates that the proposed draft rates adopted on 25 July 2022 are less restrictive (51 spaces) than that under Precincts 2 & 3 in St Leonards (43 spaces) as endorsed for the subject site on 28 March 2022. Accordingly, if the draft rates adopted on 25 July 2022

are imposed on the subject site, rather than those endorsed on 28 March 2022, the extent of impact on the VPA offer is further reduced.

There is also potential to further revise the parking rates that apply to the subject site as part of the post exhibition reporting process, such that the level of impact is minimised.

Alternatively, Council could resolve not to amend the parking rates at all on the site (i.e. rely on the rates for the *B4 Mixed Use* zone in North Sydney as they currently apply) and receive the full benefit of the VPA offer. However, this would result in a poor outcome in terms of traffic generation and maximising the site's locational advantage to mass public transport. This approach is not supported as it is contrary to achieving the desired outcomes of the Community Strategic Plan and North Sydney Transport Strategy. This issue is also of considerable community concern.

Conversely, the applicant could have resolved to accept the more restrictive parking rates as resolved on 28 March 2022 which in turn would then have had a significant impact on delivering the full extent of the original VPA offer.

The applicant's revised VPA offer, dated 2 August 2022 (at Attachment 1) in conjunction with their request dated 3 August 2022 to amend the parking rates in the site specific DCP to reflect the proposed rates endorsed by Council on 25 July 2022 provides a level of flexibility. It also provides suitable balance on needing to further amend the VPA offer, should Council arrive at an alternative parking rate requirement, following the public exhibition of the proposed draft car parking rates considered on 25 July 2022.

## **2. Referral**

The revised offer was referred to the Director of Community Services for their comment due to the potential impact on quantum of money to be received for community facilities in the Ward Street Precinct (Item a) and the construction and dedication to Council of an affordable housing unit (Item d). They have advised

*I understand that there will be financial implications for the developer if reduced parking rates are imposed. As a result, the developer has revised the VPA with an offer that the 2-bedroom affordable housing unit will be retained, if the potential regional infrastructure contribution isn't applied and only reduced parking rates are imposed, but note that it will be lost if both the potential regional infrastructure contribution is applied and reduced parking rates are imposed. It is noted that the likelihood of regional infrastructure contribution being imposed is very low, due to the relevant legislation having yet been adopted.*

*Whilst I'm disappointed that this could mean a reduction in monetary contribution for community facilities within the Ward Street Precinct, I do support the VPA offer of an affordable housing unit within the development to be owned and managed by Council.*

### **3. Addressing of Council Resolution – VPA matters**

When Council resolved on 28 March 2022 to endorse the intent of the VPA, it also resolved that prior to its public exhibition, that the VPA offer be revised to:

- (a) include public benefits back up to a total value of \$5.8 million as originally offered, given the uncertainty as to the implementation of a Regional Infrastructure Contribution system; and*
- (b) include an ability for the applicant to revise their VPA offer should the Regional Infrastructure Contribution system be introduced.*

The revised letter of offer (refer to Attachment 1) adequately addresses this resolution.

### **4. Next Steps**

Council staff are currently working with the applicant to finalise the wording of the draft VPA such that it can be placed on public exhibition concurrently with the Planning Proposal and Draft DCP amendment.

Following the conclusion of the concurrent public exhibition of the Planning Proposal, revised draft VPA and revised Draft VPA, the matter will be reported back to Council for its consideration as to whether to proceed or not.





2 August 2022

**North Sydney Council**  
200 Miller Street  
North Sydney NSW 2000

**Attention:** The General Manager  
**By:** Email

Dear Sir,

**LETTER OF OFFER TO ENTER INTO A VOLUNTARY PLANNING AGREEMENT –  
PLANNING PROPOSAL FOR 45 MCLAREN ST NORTH SYDNEY.**

We write on behalf of 45 McLaren Pty Limited (the **Developer**), a wholly controlled subsidiary of the Podia Group in relation to 45 McLaren St, North Sydney (**the site**).

We refer to Planning Proposal (Department Ref: PP-2022-1259) which was granted Gateway Determination by the Department of Planning and Environment on 1 June 2022. Prior to the Gateway Determination being issued, North Sydney Council resolved in a unanimous vote on 28<sup>th</sup> March to support the Planning Proposal and the associated changes to the *North Sydney Local Environmental Plan 2013 (NSLEP 2013)* for 45 McLaren Street, North Sydney. In issuing its support for the Planning Proposal, Council also resolved to provide in-principle support for the previous Letter of Offer to enter into a Voluntary Planning Agreement (**VPA**) dated 15 March 2022, subject to ensuring that the value of the offer remained in the order of approximately \$5.8m. The Offer of 15 March 2022, was predicated on the controls set-out below under Development Overview and importantly assumed the applicable DCP Car Parking rates under the B4 Mixed Use zone.

We note that when Council resolved to support the progression of the Planning Proposal to Gateway Determination it also resolved to endorse a draft DCP amendment which would impose significantly reduced parking rates on the subject site. It is further noted that on 25 July 2022, Council resolved to amend the car parking rates within the DCP such that reduced parking rates are applied to areas that contain major transport infrastructure. As a result of these desired changes to Council's car parking policy, there are direct financial implications for the redevelopment of the site. The desired changes to Council's DCP car parking controls were not known by the Developer at the time that the previous VPA offer was made. Accordingly, we present Council with the following revised VPA offer.

**Development Overview.**

In accordance with the NSLEP 2013, the site is currently zoned R4 High Density Residential and has a maximum permissible building height of 12m. No floor space ratio (**FSR**) controls apply to the site and the site does not contain any items of European, Indigenous or environmental heritage.

The Planning Proposal seeks to amend the NSLEP 2013, by way of the following:

Suite 407, Level 4  
55 Miller Street  
Pyrmont NSW 2009

t: +61 2 9552 3016  
e: info@podia.com.au  
podia.com.au

**CREATING GREAT PLACES**



- Rezone the site from R4 High Density Residential to B4 Mixed Use;
- Amend the maximum height of buildings to include a split height of RL103 and RL115;
- Introduce a maximum floor space ratio of 6.25:1;
- Introduce a minimum non-residential floor space ratio of 1:1;
- Insert the following subclause (6A) after subclause 4.4A(6):  
*Despite subclause (5), an active street frontage is not required for any part of a building facing Walker Street, erected on land at 45 McLaren Street, North Sydney, being SP 14598.*
- Insert the following subclause (4) after subclause 6.12A(3):  
Despite subclause (3)(b), development consent may be granted for the purpose of a residential flat building for that part of the building at the ground floor level that faces Walker Street, on land at 45 McLaren Street, North Sydney being SP 14598.

We note that a Gateway Determination has been issued by the Department of Planning on 1 June 2022 enabling the above proposed amendments to the NSLEP 2013 to be placed on public exhibition.

The Planning Proposal is accompanied by a comprehensive Urban Design investigation and indicative concept plan prepared by Bates Smart. Additionally, supporting technical studies are included in the submission which provide further guidance with respect to the anticipated development outcome for the site.

### **Revised Voluntary Planning Agreement Offer**

In accordance with North Sydney Council's Voluntary Planning Agreement Policy (25 June 2018), we are pleased to submit a revised offer that provides material public benefit and monetary contribution to facilitate the delivery of public benefits in exchange for the planning controls uplift associated with the Planning Proposal.

Following submission of this Letter of Offer to Council, and subject to Council's agreement, we propose to finalise the VPA documentation. It is proposed that the VPA will provide for:

#### **a) Monetary Contribution for Community Infrastructure:**

A monetary contribution for community infrastructure works is proposed on the basis of a rate per additional dwelling approved in a Development Consent at 45 McLaren Street, North Sydney. A rate of **\$34,000** per additional dwelling (excluding any apartments allocated for Affordable Housing) is proposed for the purpose of carrying out community infrastructure and public domain upgrades within the Ward Street Precinct.

This amount will be paid prior to issue of occupation certificate and in addition to whatever the normal amount of local infrastructure contributions is payable under section 7.11 or 7.12 of the EP&A Act.

If any special infrastructure contribution is required to be paid to the NSW Government under the terms of a development consent (or a separate planning agreement with the



state government) the monetary contribution required under the planning agreement will be reduced accordingly.

**Working Example of Calculation Method** (For methodology purposes only. Not indicative of value):

Step 1: Number of dwellings approved in Development Consent for subject site:	say 85 dwellings in the Development Consent.
Step 2: Number of Existing Dwellings:	18 dwellings
Step 3: Number of Additional Dwellings:	67 dwellings
Step 4: Rate / Additional Dwelling:	\$34,000
<b>Step 5: Monetary Contribution Value:</b>	<b>\$2,278,000</b>

**b) Through-Site Link (Works in Kind and Contribution of Land):**

We propose to carry out the works to upgrade and widen the through-site pedestrian linkage between Walker Street and Harnett Street on the southern boundary of the site.

The pedestrian link is proposed to be widened by approximately 2m using land within the site. Following recent meetings with Council and in line with Council's request, the ownership of this land will be tied to the future strata title of the development and managed by the Body Corporate to be established following completion of the project.

The combined value the Through-site link is estimated to be **\$1.8 million**, comprising the following elements:

<b>Works to create through-site link</b>	\$750,000
<b>Land Value and Opportunity Costs</b> The land being offered towards this initiative is estimated to have an underlying value of between \$400,000-\$600,000. Furthermore, there is an opportunity cost associated with the forgone land because of the lost opportunity to create improved amenity within the private space of the scheme, estimated to be worth \$200,000-\$400,000.	~\$500,000
<b>On-going maintenance &amp; minor capital expenditure</b> Assumes \$100/week for upkeep, including blowing, sweeping, hosing and caring for landscaped items plus \$1,000 p.a for minor capital expenditure, such as replacing broken pavers, broken light bulbs, decaying plants and the like over a 50 year period. Escalation of 2% p.a over 50 years has also been allowed.	\$525,000
<b>Major Capital Works</b> Assumes \$5,000 every 10 years over a 50 year period. This is to cover costs for upkeep and upgrades (as required) to stormwater infrastructure, resurfacing of hardscaped areas, relandscaping, major pruning and maintenance of plants and trees and the like.	\$25,000
<b>TOTAL COST</b>	<b>\$1,800,000</b>

**c) Public Domain (footpath, curb and gutter) upgrade works (Works in Kind):**

We propose to carry out upgrade works to approximately 127m of footpaths, curbs, gutters and improved landscaping around the site Walker St, McLaren St, and Harnett St.

The cost estimate for the proposed works is \$600,000.



It is acknowledged that these works would traditionally take place following receipt of a Development Approval. However, a Development Approval would not be sought for the site unless a rezoning were granted. Accordingly, these are genuine costs to be incurred by the developer following receipt of a rezoning for the site. The site also comprises three (3) street frontages, where most sites typically have one or two street frontages.

In consideration of the above, we propose to allocate 1/3<sup>rd</sup> of the costs described above to our VPA offer, being **\$200,000**.

**d) Affordable Housing Contribution:**

We propose to deliver and handover to council 1, 2-bedroom apartment within the development to be owned and managed by council within its Affordable Housing program.

The estimated market value for a 2-bedroom apartment in this location is **\$1,500,000**.

**Summary of Voluntary Planning Agreement Offer**

The table below provides a summary of our proposed contributions and value which reflect a total VPA offer of approximately **\$5.78 million**.

<b>Description of Developer's Contribution</b>	<b>Estimated Value</b>
a) Monetary Contribution – Community Infrastructure	\$2,278,000
b) Through-Site Link:	\$1,800,000
c) Public Domain Works	\$200,000
d) Affordable Housing	\$1,500,000
<b>Total Estimated Contributions</b>	<b>\$5,778,000</b>

The delivery of the material public benefit items would be provided before the issue of any occupation certification on the site. The value of the contribution and material public benefit offering is based on the development proposed in accordance with the Department of Planning Gateway Determination and accompanying reference scheme in the Planning Proposal prepared by BatesSmart.

In the event of changes to the proposed built form controls as part of the Planning Proposal or changes to the North Sydney DCP and LEP we reserve the right to adjust the VPA offer. Furthermore, we reserve the right to adjust the VPA offer based on the market conditions prior to the exhibition of any draft VPA.

**Adjustments to VPA Offer for Car Parking & Regional Infrastructure Contributions (RIC)**

Car Parking

When Council resolved to progress the Planning Proposal to Gateway Determination, it also resolved to impose reduced parking rates. This proposed reduction in car parking rates will have a significant impact on the commercial viability of redeveloping the land.



A car space attached to a 1, 2 or 3 bedroom apartment in North Sydney is worth between \$200,000 and \$300,000. The costs to construct a basement car parking space is approximately \$50,000 per car spot. Accordingly, the commercial impact of not having car parking spaces available to sell is between \$150,000 and \$250,000.

The added challenge with not having car parking spaces available to sell means the apartments are harder to sell as most home/apartment buyers in metropolitan Sydney own a car and are seeking facilities to store their cars when not being used.

If reduced car parking controls are imposed on the site, we are seeking a reduction to our VPA. The below mechanism only captures approximately 24%-40% of the total commercial impact of complying with reduced car parking controls on the site.

If Council imposes reductions to the car parking controls beyond what the current B4 Mixed-Use controls permit, the VPA will be reduced on a per car basis by a rate of \$60,000 ("**Car Park Reduction Rate**").

**Working Example of Calculation Method** (For methodology purposes only. Not indicative of value):

The below Table indicates a difference in car parking of 27 spaces (B4 rates less Future Proposed Rates).

No. of reduced spaces under new DCP controls	= 27
Car Park Reduction Rate	= \$60,000
VPA Adjustment Amount (27 x \$60,000)	= \$1,620,000

Table. Current DCP Car Parking rates vs. Proposed Future Rates.

	45 McLaren St Proposal (reference scheme)		Current rates B4 Zoning		Future Proposed Rates*	
<b>Residential</b>	1 bed	25	0.5	12.5	0.4	10
	2 bed	38	1	38	0.6	22.8
	3 bed	19	1	19	0.7	13.3
		82		69.5		46.1
<b>Commercial</b>				<b>69</b>		<b>46</b>
	Retail	1499	400	3.7	400	3.7
	Gym	592	100	5.9	400	1.5
	Total	2061		9.7		5.2
				<b>9</b>		<b>5</b>
<b>TOTAL</b>				<b>78</b>		<b>51</b>

\* Based on the proposed parking rates adopted by Council on 25 July 2022.



#### Regional Infrastructure Contribution (RIC)

The State Government have mooted the possibility of a Regional Infrastructure Contribution (RIC) on all developments across the state.

The estimate of the RIC on the subject site is in the order of **\$1m** (\$10,000/dwelling plus \$30/m<sup>2</sup> for retail area).

If this contribution type is imposed on any future development consent for the redevelopment at 45 McLaren St, item (a) is to be reduced by the same amount required under such a contribution scheme.

#### Special Conditions for adjustments

If a reduction in car parking controls is imposed and/or a RIC contribution is imposed by the State Government, the VPA Adjustment Amount would be adjusted as follows:

1. If adjustments for both Car Parking and RIC are required before approval of the first Development Application for the redevelopment of the site (after LEP Gazettal), the VPA will be adjusted as follows:-
  - i. Affordable Housing (item d.) will be adjusted first; then
  - ii. Monetary Contribution (item a.) will be adjusted secondly.
2. If adjustments for Car Parking only are imposed before approval of the first Development Application for the redevelopment of the site (after LEP Gazettal), the Monetary Contribution (item a) only under the VPA will be adjusted in accordance with the mechanism described above under Car Parking.

#### **Parties to the VPA.**

The parties to the VPA will be 45 McLaren Pty Limited as the Developer and the Council.

#### **Land to which the VPA applies.**

The VPA will apply to the site, being land described as Lot 1-18 in Strata Plan 14598.

#### **Timing of the obligations.**

The VPA will be entered into prior to the publication of the environmental planning instrument giving effect to the planning proposal.

The obligation to provide the contributions under the VPA must be satisfied prior to the issue of an occupation certificate for any building erected on the site in accordance with any future development consent for the erection of a mixed use development incorporating residential, retail and commercial uses on the site.



### **Enforcement of the VPA.**

The Developer does not propose to lodge monetary security in relation to the above obligations. This is because the VPA will provide for the enforcement of the agreement by a suitable means in the following ways:

- The Developer will arrange for the registration of the VPA on the title of the site. This means that the agreement will be binding on, and enforceable against, the Developer of the site from time to time as if each Developer for the time being had entered into the agreement (section 93H(3) of the *Environmental Planning and Assessment Act 1979*).
- Prior to registration, the Developer will not be able to assign or novate its rights under the agreement, or transfer its interest in the site, without Council's consent. The Council's consent may not be unreasonably withheld, but consent may be withheld if the Developer is in breach of the agreement. The restriction will not prevent the use of the land as security for the purpose of finance.
- It is proposed that an occupation certificate will not be able to be issued if:
  - the necessary construction required by the VPA has not been completed; and/or
  - the relevant easement-in-gross has not been imposed (section 6.10 of the *Environmental Planning and Assessment Act 1979*).

### **Dispute resolution.**

The VPA will contain a mechanism for the resolution of disputes by way of mediation.

### **Formal document.**

A VPA will need to be prepared in accordance with this offer. It should be expected that this document will contain reasonable safeguards to protect the Developer's interests and those of the Council that are not expressly referenced in this letter. Ultimately, any agreement will be dependent on the finalisation of this document in a form that is satisfactory to both the Developer and the Council.

### **Costs of negotiating and exhibiting the VPA.**

The Developer is prepared to pay the Council's reasonable costs of negotiating and exhibiting the VPA.

### **Next steps.**

This Letter of Offer is submitted to Council for your consideration. We would welcome the opportunity to meet with Council to discuss this proposal after which time, we would proceed with drafting the VPA.



The VPA would operate when the amendments to the Local Environment Plan and Development Control Plan take effect.

**Yours faithfully,**

**Michael Grassi**

Director, Podia Developments Pty Ltd  
On behalf of 45 McLaren Pty Limited